

United States District Court
Middle District of Florida
Jacksonville Division

LATROY HAMPTON,

Plaintiff,

v.

No. 3:21-CV-449-MMH-PDB

MTC MEDICAL, LLC,

Defendant.

Order

The defendant moves to compel the plaintiff to respond to interrogatories and requests for production served on June 3 and for an award of expenses associated with preparing and filing the motion. Doc. 23. The defendant contends an award of expenses is warranted because the defendant's counsel offered extensions, conferred with the plaintiff's counsel many times about getting the responses, and waited almost six weeks before filing the motion to compel after receiving no response. Doc. 23 at 5–6. The plaintiff apologizes and states the plaintiff is prepared to pay expenses. Doc. 24.

If a party provides requested discovery after the filing of a motion to compel, the Court “must, after giving an opportunity to be heard, require the party ... whose conduct necessitated the motion, the party or attorney advising that conduct, or both to pay the movant's reasonable expenses incurred in making the motion, including attorney's fees.” Fed. R. Civ. P. 37(a)(5)(A). “But the court must not order this payment if: (i) the movant filed the motion before attempting in good faith to obtain the disclosure or discovery without court

action; (ii) the opposing party's nondisclosure, response, or objection was substantially justified; or (iii) other circumstances make an award of expenses unjust." Fed. R. Civ. P. 37(a)(5)(A)(i-iii).

The plaintiff responded to the discovery requests after the defendant filed the motion to compel, and the plaintiff shows no substantial justification or other circumstances making an award of expenses unjust.* The Court therefore **grants** the motion, Doc. 23, to the extent the plaintiff or the plaintiff's counsel—whichever is blameworthy—must pay reasonable expenses the defendant incurred in moving to compel and otherwise **denies** the motion as moot and without prejudice. By **September 15, 2021**, counsel must confer in good faith to agree on an amount. If counsel cannot agree on an amount, they should call the Courtroom Deputy, Angela Loeschen, (904) 549-1952, to schedule a telephone conference on the matter.

Ordered in Jacksonville, Florida, on August 30, 2021.



PATRICIA D. BARKSDALE
United States Magistrate Judge

*The plaintiff's initial delay appears to have been justified by the death of a law firm staffer. The plaintiff does not explain other delays.